



Town of Dunstable

Affordable Housing Committee

Request for Proposals

Development in the Mixed Use District

Town of Dunstable
REQUEST FOR PROPOSALS FOR THE
DEVELOPMENT OF HOUSING
IN THE MIXED USE DISTRICT
DUNSTABLE, MASSACHUSETTS

Carol Bacon, Chair

Alan Chaney

Dana Metzler

Jon Hughes, Secretary

John DeNyse

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Date of Delivery of Questions: January 6, 2020

Date of Delivery of Responses to Questions: January 21, 2020

Due Date for Responses: March 2, 2020. Applications will be accepted no later than 2:00 P.M. at Dunstable Town Hall, Town Administrator's Office, 511 Main Street, Dunstable, Massachusetts.

LATE PROPOSALS WILL NOT BE ACCEPTED.

This Request for Proposals was developed in accordance with the requirements of Chapter 30B and the state Inspector General's Procurement Manual, the Disposition of Public Land.

Town of Dunstable

REQUEST FOR PROPOSALS FOR THE DEVELOPMENT OF HOUSING IN THE MIXED USE DISTRICT DUNSTABLE, MASSACHUSETTS

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1. Summary

1.1 Development Offering

On behalf of the Town of Dunstable (the “Town”), the Dunstable Affordable Housing Committee (“Committee”) is issuing this Request for Proposals (“RFP”) to invite proposals from qualified development teams for the acquisition and development of some or all of a 28.5 acre lot located on Assessor’s Map 12 Lots 48 and 49-1 and known as the Mixed Use District (“MUD”) (“Property”) that is owned by the Town of Dunstable (“Town”). **Non-age** restricted multi-family rental housing units to be built. The purpose of this RFP is to identify and select a developer for the project that will provide quality mixed income rental housing to meet the needs of a variety of income and age levels for residents of Dunstable and the surrounding area.

The preparation of the RFP response shall be at the expense of the respondent. It is the sole responsibility of the respondent to fully examine this RFP’s attachments and referenced documents. Questions shall be addressed by email to Dunstable Affordable Housing Committee, housing@dunstable-ma.gov before January 6, 2020. If questions arise at any time before this date, all answers will be in writing and the questions and answers will be shared with all those who have received a copy of the RFP.

A Pre-Submission Conference will be held at 2:00 PM, December 18, 2019, at the Dunstable Town Hall. The Committee is not requiring all respondents to attend this Conference; however, all potential respondents are strongly encouraged to participate.

One original, one digital copy and six paper copies of the proposal shall be returned in a sealed envelope clearly marked “Dunstable Affordable Housing Committee, MUD Proposal” on the outside of the envelope to:

Dunstable Affordable Housing Committee
Dunstable Town Hall
511 Main Street
Dunstable, MA 01827

All proposals to acquire and develop the property must be submitted by 2 PM on March 2, 2020, when they become the property of the Committee and are subject to applicable Public Record Laws. Telecopied or electronically sent proposals will not be accepted. Refer to Section 4 of this RFP for the developer submission requirements. **Late applications will not be accepted.**

Respondents to the RFP will be able to correct or modify their proposals, but must submit one original, one digital copy, and six paper copies of any modifications or corrections in writing to the above contact person and address prior to the RFP deadline. Respondents may also withdraw their proposals at any time during the application and selection process. Moreover, the Committee reserves the right to reject any and all proposals or to cancel the RFP if for some reason it is determined that it would be in the best interest of the Town and the Committee.

1.2 Introduction to the Project

On behalf of the Town of Dunstable (the “Town”), the Dunstable Affordable Housing Committee (the “Committee”) is pleased to present this Request for Proposals (“RFP”) for the development of a 28.5-acre lot (“Property”) on Assessor’s Map 12, Lots 48 and 49-1 known as the Mixed Use District (“MUD”) in Dunstable, MA. This 28.5-acre property abuts Salmon Brook which flows from Lower Massapoag Pond and the Craven Conservation Property; it offers an opportunity to create a high-quality housing community for all ages and incomes in the Town on part of the site.

The Property is located on Pleasant Street and was acquired by the Town of Dunstable for \$390,000 in 1999. The deed to the Town of Dunstable is recorded in Middlesex North Registry of Deeds Book 10022 Page 236, Book of Plans 199 Plan 108. (See Deed Attachment I).

The Committee’s primary goal for the Property is to ensure the development of mixed-income non-age-restricted rental housing at least 25% affordability at 80% or lower AMI. The Committee’s decision to build affordable rental housing for mixed ages on the Property was based upon community input, research and an extensive feasibility study. Activities included, but were not limited to: collaboration between the Committee and LDS Consulting Group, LLC and site visits to other affordable housing developments.

The next step in the process is for the Committee to select a developer to enter into a development agreement with the Town that is consistent with the Town’s goals and guidelines. The Town expects to lease the property to the selected developer under agreed upon terms which will require general and reasonable conformance and long-term affordability of the housing that is produced. Community Preservation Funds may be available for the project.

The Committee makes no representations or warranties, express or implied, as to the accuracy and/or completeness of the information provided in this RFP. This RFP (including all attachments and supplements) is made subject to errors, omissions, prior sale, lease or financing, and withdrawal without prior notice, and to changes to, additional, and different interpretations of laws and regulations.

Prospective developers are responsible for undertaking their own review and analyses concerning physical conditions, environmental conditions, applicable zoning, required permits and approvals, reuse potentials, and other development, and legal considerations. Prospective developers should be aware that any lease agreement will be negotiated with the Board of Selectmen of the Town.

2. Property Description

2.1 Town of Dunstable

Dunstable was incorporated upon the petition of 26 proprietors of land along the Merrimack River, on October 15, 1673, and once comprised 200 square miles (128,000 acres) extending from Londonderry, New Hampshire, to Chelmsford, Massachusetts. During the 1700s, section after section broke off until 15 separate towns were formed, leaving Dunstable with only 10,500 acres and a population of 380 in 1790.

The original town was named in honor of Mrs. Edward Tyng, who emigrated from Dunstable in Bedfordshire, England. The Tyngs were among the early settlers of the land purchased from

the Wamesit and Naticook Indians in 1661 for £20 sterling. As we travel through Dunstable today, we pass houses that can be traced back to some of Dunstable's original settlers ... the Proctors, Cummings, Kendalls, Butterfields, Blodgetts, Swallows and others.

Dunstable is a rural community which now encompasses a little under 17 square miles. The majority of the town is zoned single family and agriculture with an estimated population count of fewer than 3,300 people spread out amongst some 1100 +/- households.

2.2 Community Character

Today, Dunstable is a beautiful community due in part to the abundance of conserved open space, held both by the Town and the Dunstable Rural Land Trust. This produces a landscape with woods, fields, a river, ponds, and streams. It is a community of farms and residences. Its residents commute to work in Boston and its suburbs. Dunstable retains much of its charm and character from earlier years. There is not a major retail and civic hub, but the Town Center retains its historic character with the existence of the Swallow School, Church, and Town Hall. The Center is a National Register Historic District.

2.3 Population/Demographic Characteristics

The Town is governed by a three member Board of Selectmen, Town Administrator and an Open Town Meeting. As of the 2010 Census, there were 3,179 residents in 1,063 households in the Town. The racial makeup of the town was 94.9% White, 3.3% Asian, and 1.8% from other races. Hispanic or Latino of any race made up 0.3% of the population.

Of the 3,179 residents, 31.3% were children under the age of 19, and 19.1% were 60 years of age or older. The median age was 42.2.

According to the 2010 Census, the average household size was 2.99. As of the 2016 American Community Survey, the median household income for a household in the town was \$118,984. The per capita income for the town was \$55,982. Families meeting federal poverty-level guidelines totaled 1.7% of the population.

2.4 Housing Characteristics

The 2010 Census counted 1,063 total households in the Town of which 93.7% were owner-occupied, representing a considerably higher level of owner-occupancy in 2010 than for Middlesex County (62.5%) and the Boston region (34.2%).

At the 2011 Annual Town Meeting, the Town amended the General Bylaws to establish an Affordable Housing Trust Fund Board of Trustees. On November 19, 2013 Dunstable had its first Affordable Housing Committee meeting.

This committee in conjunction with the Northern Middlesex Council of Governments (NMCOG) produced a Housing Production Plan that was approved by the Massachusetts Department of Housing and Community Development (MADHCD) in the spring of 2016.

After the completion of this Housing Production Plan, the Committee commissioned a supply and demand study of age restricted housing. This study was completed by LDS Consulting Group, LLC in the summer of 2016. As part of this project a conceptual plan was developed for the Property to help meet that realized demand.

2.5 Site Information

The following information is provided for preliminary informational purposes only and should be independently determined and verified by prospective developers. Figures illustrating existing site conditions and site opportunities and constraints are included as Appendix G.

The site area is about 28.5 acres. This property is bounded by Post Office to the west, conservation land to the south, and residential land to the east. It also includes an access easement over 170 Pleasant Street (the Post Office parcel). The Property is illustrated on the conceptual plan (found on the Town website, see attachment III).

2.5.1 Neighborhood Description & Adjacent Uses

The community around the Property is an area of modest homes, woodlands, and floodplain wetlands.

2.5.2 Utilities/Infrastructure

The water supply line from Pond Street west to the site has been upgraded to a 12" line. In addition, in order to supply sufficient water to the development the Town is constructing improvements to its so-called "well 1" and its hydropneumatic tanks and building a water storage tower, with work commencing in the summer of 2019, with completion anticipated within 6 months.

In addition, an access Roadway with all underground utilities (including water) needs to be built from Pleasant Street down to the site. To the extent approved by the Town, some or all of the access driveway will be dedicated as a public way; however, this will trigger Complete Streets requirements.

It is anticipated that the septic leaching field necessary for this development will be built on site in accordance with the Dunstable local septic regulations(unless a comprehensive permit is sought), and may need to be shared among the various users. See letter prepared by Hancock Associates Engineering with more detail on septic requirements (attachment IV).

A deep hole test was done on the lot on July 11, 2019, with results available as Attachment H.

There are natural gas and three phase electric available on Pleasant Street.

2.5.3 Summary of Site Opportunities & Constraints

The following description of physical, legal, and regulatory constraints is provided for informational purposes only. It should not be relied upon without independent verification by any proposed developer. Also included are some recommendations for the proposed development

- In accordance with the Massachusetts State Building Code, sprinklers will be installed as required. When improvements are completed, the public water system will sufficiently supply this type of sprinkler system.
- The items listed below correspond to labels shown on the conceptual plan (Document III on website).

- **Buffers:** The western portion of the Property borders an area of wetlands adjacent to Salmon Brook. Various setback distances exist from the wetlands and floodplain.
- **Topography:** The property ranges in elevation within the development area between 165 to 180 feet. The Property is essentially an exhausted gravel pit.
- **Wooded Areas:** Existing trees, e.g. four-inch caliper at four feet, shall be maintained whenever feasible. Trees shall be maintained to buffer new development from adjacent residential neighbors wherever possible.

2.5.4 Floodplain

The Property is partially within the 100-year floodplain zone.

2.5.5 Easements

Title to Property benefits from an Access Easement recorded in Middlesex North Registry of Deeds Book 10022 Page 236. The easement contemplates development of a common access road to serve the Property and the Post Office.

2.6 Zoning

A copy of the Zoning Bylaw can be found on the Town's website (dunstable-ma.gov). The following description of provisions of the Dunstable Zoning Bylaws (the "Zoning Bylaws") is for informational purposes only. It should not be relied upon without independent verification by any proposed developer.

The Property is located in a Residence 1 Mixed Use District (Zoning By-Law section 23). The table below is a summary of the requirements, detailed in the Zoning Bylaws, as it would pertain to the development of 40 +/- dwelling units.

Category	Provision
Minimum Lot Size	10 Acres
Minimum Frontage	N/A
Maximum Stories	3
Maximum Lot Coverage	30%
Lot Line Setbacks	30' minimum

3. Development Guidelines

The Development Guidelines presented in this section reflect the development objectives and desire of the Town to promote the development of affordable and market rate housing which has as low a visual impact on the neighborhood as possible while being of high quality and consistent with the intended use.

3.1 Programmatic and Use Guidelines

The Committee will consider proposals for mixed age and income housing of a variety of building types. The Committee's major concern is that the proposed plan and development meet the particular objectives, requirements and restrictions listed below. Design guidelines are summarized in Section 3.2.

3.1.1 Summary of Components

The residential portion of the development should include 40 +/- units of mixed age and income housing; at least 25% of the units must be affordable at no more than 80% of AMI and the remaining 75% of the units may be market rate. Developers are encouraged to be creative with financing opportunities in this area. To the extent allowable by the MADHCD, the Town will request a 70% local preference for the affordable units.

All rental units must count towards Dunstable's Housing Production Plan (HPP) production goals in the DHCD Subsidized Housing Inventory.

The development should attempt to incorporate the spirit of Dunstable architecture and open space.

It is the Committee's intention to encourage creativity on the part of the developer's proposal. The Committee would like to take advantage of the developer's experience and knowledge of the marketplace. At the same time the Committee is concerned about negative impacts on the neighborhood, building character, and other factors.

3.1.2 Relationship to Environment/Design Approach

Proposed uses, developments and designs should be sensitive to the character and scale of the surrounding community and be sympathetic to the adjacent wooded areas. The project should not detract from the scenery or existing resources nor have a significant negative impact on the environment of adjacent natural areas.

3.2 Design Guidelines

The following Design Guidelines are intended to provide some direction to respondents on the design character and sustainability goals the Committee is seeking in proposals. The order of presentation does not indicate any priority or ranking of trade-offs among the Guidelines.

3.2.1 Program Guidelines

- **Rental Buildings**

One or more multi-family age restricted rental unit building(s) resembling traditional New England style architecture. Each multi-story building should have an elevator and at least one handicapped accessible unit. Each unit should contain laundry facilities.
Resident Parking

Appropriate residential parking should be provided and screened from the Pleasant Street view.

Appropriate visitor parking should be provided and screened as much as practical from Pleasant Street.

- **Patio/Common Outdoor Area**

A shared outdoor patio and gathering place should be provided. Siting of community gardens, trails, and other passive recreational spaces should be sited in consultation with the Conservation Commission and Affordable Housing Committee.

- **Building and Public Space Orientation**

Building orientation and materials use should utilize passive solar gain. Maximum building exposure should face south wherever possible. Orientation should maximize solar exposure of common areas.

- **Landscaping**

A landscaped buffer shall be provided between adjacent neighbors and the new development and between Pleasant Street and the new development. Trees and other plantings should be of low maintenance species that are native to the area.

3.2.2 Infrastructure Guidelines

- **Roadway**

The roadway from Pleasant Street will be constructed under “Complete Street” laws, and have a low visual impact on Pleasant Street. This roadway is anticipated to be accepted as a town-owned way.

- **Water Supply**

Public water must be piped into the development from Pleasant Street as identified in section 2.5.2 of this RFP, which may be possible with CPC funds.

- **Septic**

A septic system with a leaching field is to be located on-site, subject to the requirements that the resulting system shall follow the natural contours of the land as

much as possible. Any existing trees shall be preserved to the maximum extent possible.

- **Storm water**

Storm water management shall be consistent, in both wetland and non-wetland areas, with DEP Storm Water Standards and Handbooks. Low impact development designs and technologies should be used.

3.2.3 Character and Material Guidelines

- **Architectural Style**

Architecture shall be the traditional New England style building patterns, scale and character found in the older areas of Dunstable (not the newer developments). The architecture should be sensitive to the overall scale and style of the Main and Pleasant Streets. The buildings shall have pitched roofs.

- **Scale and Siting/Orientation of Buildings**

The building or buildings should be sited to limit negative visual and noise impacts on neighboring residential properties.

- **Building Materials**

Natural materials are the traditional building materials of the area and should be used to the maximum extent possible. Creative use of renewable resource or low maintenance material, such as Hardie Plank, may be considered in so far as their visual impact does not detract from overall appearance.

- **Lighting**

LED lighting should be used indoors and outdoors. Outdoor lighting should provide for pedestrian and vehicle safety while at the same time located and directed so as to limit its impact on adjacent natural areas and the neighborhood.

3.3 Schedules

3.3.1 Town's Anticipated Schedule

The Committee will review all proposals in as expeditious a manner as possible and get back to all respondents in writing of its decisions within 60 days. Award is subject to all necessary municipal approvals and prerequisite Dunstable Water Department improvements.

3.3.2 Developer's Anticipated Schedule

Developers should provide a timeframe for the development process based at least on the following milestones:

Enter into a development agreement with the Board of Selectmen, on behalf of the Town within sixty (60) days of selection (which term may be extended in the sole discretion of the Town.

Prepare project phasing plans and budget.

1. Apply for necessary regulatory relief.
2. Secure regulatory approvals.
3. Prepare and submit necessary materials to apply for subsidies.
4. Secure construction financing commitment.
5. Finalize plans and secure all subsidies and permits.
6. Close on construction financing.
7. Enter into lease agreement with Town.
8. Begin and substantially complete construction of infrastructure.
9. Begin phased construction.
10. Oversee marketing of the units, the fair housing lottery and tenant selection process.
Complete construction, securing occupancy permits and delivering units to tenants.

The Committee expects that the selected development team will, upon acquiring the property, move quickly to undertake and complete pre-development activities and start construction at the earliest feasible date. The project should occur within a reasonable timeframe but in no event exceed 36 months after the lease is signed unless waived by the Committee in its sole and absolute discretion.

4. Developer Submission Requirements

4.1 Submission Process

The Request for Proposals application package will be available starting at 9:00 A.M. on December 3, 2019, at www.dunstable-ma.gov/MUDrfp2019, or contact Assistant Town Administrator Jake Voelker at 978-649-4514 x 224, or by email jvoelker@dunstable-ma.gov to obtain an electronic copy.

Completed copies of the RFP application must be submitted in a sealed envelope clearly marked “Dunstable Affordable Housing Committee, MUD Proposal” on the outside of the envelope. One original, one digital copy and six paper copies of the complete proposal must be received by 2 PM on March 2, 2020, at the same location addressed to

Dunstable Affordable Housing Committee
Dunstable Town Hall
511 Main Street
Dunstable, MA 01827

Late proposals will not be accepted.

Upon review, if any items are missing and/or incomplete, the Affordable Housing Committee, at its discretion, may reject the application. Additionally, submission of proposals shall be deemed to incorporate the permission of the applicant to make any inquiries concerning the applicant as considered necessary to fully review qualifications.

Questions shall be addressed in writing to Dunstable Affordable Housing Committee, at the address listed above or by e-mail at housing@dunstable-ma.gov and received prior to January 6, 2020. If any questions arise at any time before this date, all answers will be in writing, be answered by January 21, 2020, and the questions and answers will be shared with everyone who has requested a copy of the RFP.

4.2 Pre-Submission Conference

A Pre-Submission Conference will be held at 2 PM on December 18, 2019, at the Dunstable Town Hall, 511 Main Street, followed by a site walk. The Committee is not requiring all respondents to attend this Conference. However, all potential respondents are strongly encouraged to participate. The meeting will include a presentation of the main components of the Request for Proposals and provide an opportunity for interested respondents to have their questions answered.

4.3 Submission Enclosures

The Town is interested in receiving proposals that satisfy the Development Guidelines and other requirements set forth in this RFP, from any individual, company, firm, partnership, group or organization capable of leasing and developing the Property. Proposals not providing evidence of ALL of the following items will be considered non-responsive and shall not be given further consideration:

- Disclosure of Beneficial Interests Form-M.G.L. c.7,40J
- Statement of Tax Compliance Form - M.G.L. c. 62C, 49A
- Certificate of Non-Collusion Form

4.4 The Development Team

The proposal must include a description of the development team, the individuals and organizations to be involved in the development and their experience. The development team may include, without limitation, a development manager, property manager, architect, contractor, engineers, consultants, lenders and investors. This description must include the following information:

- 1) The name, address and telephone number of the developer, the name of any representative authorized to act on his/her behalf, the name of the contact to which all correspondence should be addressed, and the names and primary responsibilities of each individual on the development team.
- 2) If the developer is not an individual doing business under his/her name, a description of the firm and status of the organization (e.g., whether a for-profit, not-for-profit or charitable institution, a general or limited partnership, a corporation, LLC, LLP, business association, or joint venture) and the jurisdictions in which it is registered to do business.
- 3) The nature of the entity to take possession of the Property and the borrower and guarantors of debt, if any.
- 4) Identification of all principals, partners, co-venturers or sub-developers participating in the transaction, and the nature and share of the participants' ownership in and compensation from the project.
- 5) The property developer will be expected to either oversee directly, or subcontract the management and operations of the affordable housing development.
- 6) Identification of the development team, such as architects, engineers, landscape designers, development consultants. Background information, including firm resumes and resumes for principals and employees expected to be assigned to the project, should be provided.
- 7) A summary of first, the developer's, and secondly, the development team's experience, collectively and individually, and with similar projects, including affordable housing projects. Particular attention should be given to demonstrate experience with projects of a similar scale and complexity. Developers should demonstrate the ability to perform in accordance with their proposal, including the ability to pursue and carry out permitting, financing, marketing, design and construction, and to complete the project in a competent and timely manner.

A summary of the past residential development experience. Respondents may include a narrative that describes similar projects that explain why your experience is relevant to the project.

- 8) Description of the organizational structure of the development team.
- 9) Confirmation that no local, state or federal taxes are due and outstanding for the development team or any constituent thereof.

- 10) Information regarding any legal or administrative actions past, pending or threatened that could relate to the conduct of the developer's (or its principals' or any affiliates') business and/or its compliance with laws and other governmental requirements.
- 11) Describe any procedures that relate to your ability to control costs and keep a project within budget.
- 12) Provide the name, address, telephone and fax numbers and email addresses of at least three business references whom we may contact regarding your business experience. For each, identify the property or properties about which the individual is informed. References may include building owners, architects, engineers, subcontractors, and other building or development professionals with whom you have worked.
- 13) Resumes or brochures, if available.
- 14) A list of all current projects and their status.

4.5 Development Concept

The proposal must include a detailed description of the development concept including but not limited to:

- 1) Proposed uses for the Property and projected total square footage, by use, number and size of units, affordability levels, amenities, etc.
- 2) Description of the target market, e.g. end-users, pricing and the strategy for marketing to these groups.
- 3) Discussion of the physical plan and architectural character of the project and how the various programmatic and physical elements of the development will relate to one another.
- 4) Discussion of environmental impacts, including but not limited to noise and traffic, during the construction and operating phases of the project. Mitigation should be proposed as necessary and appropriate.
- 5) Description of the benefits and detrimental impacts of the project to the surrounding area and to the Town of Dunstable including, without limitation, discussion of:
 - a. A description of any community benefits associated with the development; and
 - b. Analysis of the ways in which the proposal satisfies the development guidelines in Section 3 of this RFP.

4.6 Preliminary Plans

The proposal must include a 1"= 30' site plan that describes parking layout and numbers of parking spaces, building layout, entries, major landscaping features, etc. The proposal should also include five duplicate architectural plans for the major residential components of the project on the Property, with elevations, renderings and typical floor plans.

4.7 Implementation Plan and Project Timetable

The proposal must include a description of how the development concept will be implemented, including but not limited to:

- 1) Detailed development schedule for all elements of the plan, including key milestones and projected completion/occupancy timeframes.
- 2) Outline of required land use, environmental, operational and other governmental or regulatory approvals, including land use, zoning, development and environmental permits. The developer should provide a schedule for securing approvals as part of the proposal. The developer should note zoning variances, special permits or modifications required.

4.8 Management and Tenant Selection

The proposal should include a description of the management plan and tenant selection procedures. The affordable housing units must be kept affordable in perpetuity per state guidelines. The developer will be required to show what measures will be taken to ensure that the property will be managed to maintain the building and grounds.

Also describe how your firm handles post-construction complaints by tenants on completed projects. What is your firm's turn-around time for responding to complaints? How do you monitor service responses?

4.9 Project Financing & Financial Analysis

The proposal must include:

- 1 A detailed statement of the proposed method of financing the project including any additional support being requested from the Community Preservation Committee;
- 2 Sufficient information to demonstrate the developer's ability to obtain financing for the project;
- 3 A description of the entity funding predevelopment costs associated with the project, and demonstration of its capacity to fund such costs.
- 4 A financial plan, presenting a detailed description of all "sources and uses" of funds as well as a statement and plan for financing the development;
- 5 An Operating Budget for Years 1 - 5.

The financial analysis provided in this section must be sufficient to demonstrate the financial feasibility of the proposal.

4.10 Financial Qualifications

The proposal must include project budgets for past projects. Also, provide the name, address, telephone numbers, and email addresses of a contact at one or more financial institutions that are familiar with your current financial status and past experience.

5. Review and Selection Process

The review process will consist of two phases. First, all applications must meet the Level 1 or threshold requirements specified below. Only proposals that meet the Level 1 threshold criteria will be reviewed under the Level 2 competitive evaluation criteria.

5.1 Level 1 Threshold Review Process

All applications must meet the threshold requirements specified as follows:

- a) One (1) original, one (1) digital copy, six (6) complete paper copies of the application with all required attachments must be submitted. Each application copy must include all materials listed in Sections 4.3 - 4.10.
- b) Respondent's Residential Development Experience must reflect experience as a housing developer or contractor of at least two projects involving the construction of at least eight (8) housing units per project; and
- c) Respondent's Tax Compliance Form (Appendix B) must indicate that respondent is up-to-date on all state and local taxes or have an acceptable explanation as to why tax payments are not current.
- d) All Proposals shall be deemed to be public record within the meaning of M.G.L. Chapter 4, Section 7(26) after the award of the project.
- e) Satisfactory submission of required certifications.

FAILURE TO MEET THESE THRESHOLD REQUIREMENTS WILL RESULT IN THE REJECTION OF THE APPLICATION.

5.2 Level 2 Competitive Evaluation Process

All developers who pass the threshold requirements will be evaluated and ranked based on competitive selection criteria that are summarized below. With these criteria the Committee will be able to look at the relative merits of the proposals.

Construction Experience and Capacity

Developers will be evaluated as to the extent and type of their development experience, including the number, size, and scale of projects, the quality of workmanship, and the timeliness of completion. Greater weight will be given to residential projects, especially new multi-unit developments. Proposals will also be assessed according to the strength of the development team as evidenced by the inclusion of professionals among the principals and the experience and quality of relationships with subcontractors (e.g., architect, engineer, attorney). The development team should include an architect (or registered design professional), an environmental or civil engineer, a surveyor, and an attorney. In the case of joint ventures, greater weight will be given to developers who have previously carried out successful projects together.

Highly Advantageous: Majority of development team has more than five (5) years of experience in housing development including new multi-family housing construction;

combined team has had a significant role in at least ten (10) housing developments, at least three (3) of which have included affordable units.

Advantageous: Less than half of the development team has had more than five (5) years of experience in housing development that includes multi-family housing construction; combined team has had a significant role in at least five housing developments, at least one (1) of which included affordable units.

Less Advantageous: The development team has had no experience in affordable housing development.

Financial Experience and Capacity

Developers will be evaluated on the extent of their financial strength to support the most favorable terms from both a construction and permanent lender, the extent to which financial references verify financial capacity of the developer, and prior history of completing projects within budget and time constraints. Developers will be responsible for securing construction financing and will be required to submit a Letter of Interest from an established financial institution that indicates a willingness to fund the Project.

Highly Advantageous: The developer has a good credit history, including no bankruptcy or litigation within the past seven (7) years. The developer has a demonstrated capacity to secure the necessary financial resources to complete the Development and to absorb losses or overruns. The developer has been able to secure financing for Projects that require greater amounts of financing than what will be necessary for the completion of the Development

Advantageous: Developer has an acceptable credit history, including no bankruptcy within the past seven (7) years and no pending litigation that would impact his/her ability to complete the Development. References indicate that the developer has access to the financial resources to complete the development and a borrowing capacity of at least \$3 million. The developer has been able to secure financing for Projects that are at least similar in size and scope to the 40 units of housing in this proposed development.

Less Advantageous: The developer has a questionable credit history that might potentially jeopardize access to necessary financing. The developer has not undertaken a project of the same size and scope as the Development and does not have a track record thus far to secure financing at a level that will be necessary to complete the Project.

Feasibility of Development Plan

The ability of the development team to understand the complexities of affordable housing development and the challenges posed by the Property is key to the success of the Development. All development and construction costs must be reasonable and consistent with similar type projects. Developers will be assessed according to how the proposal strikes a balance between Project quality and cost. Respondents must submit a projected development budget.

Highly Advantageous: The respondent has a clear development plan, including a reasonable development, construction, and operating budget and a thorough understanding of project requirements.

Advantageous: The respondent has a clear plan with a generally acceptable development, operating, and construction budget as well as some understanding of Project requirements.

Less Advantageous: The respondent does not present a clear plan and acceptable development, operating, and construction budget and demonstrates a lack of understanding of Project requirements.

Quality of the Proposed Design and Product

Proposals will be evaluated according to how the proposed design is compatible with Development Guidelines included in Section 3 of this RFP. Developers are required to provide preliminary schematic designs of elevations, floor plans and site plans. Information on basic construction materials, where appropriate, should also be provided.

Highly Advantageous: The proposed design conforms to all or almost all of the guidelines set forth in the RFP and is appropriate for the property and the target population.

Advantageous: The design conforms to most of the guidelines set forth in the RFP and is appropriate for the property and the target population.

Less Advantageous: The design does not conform to most of the guidelines set forth in the RFP.

Cost Control Ability and Current Capacity

Developers will be evaluated on their ability to begin the permitting as soon as possible after the award of the contract and to complete the Development quickly and within budget as evidenced by past performance, current commitments and the adequacy of procedures devoted to cost control.

Highly Advantageous: The developer has a number of procedures in place to support efforts to complete housing developments on time and within budget. The developer has a proven track record in beginning and completing projects on time and within budget.

Advantageous: The developer has been able to begin and complete projects on time and within budget for many of his/her completed housing developments.

Less Advantageous: The developer has demonstrated difficulties in beginning and completing projects on time and within budget.

Ability to Work with Government

Developers will be assessed according to the extent of successful experience working with commercial lenders and government-assisted programs.

Highly Advantageous: The developer has substantial experience in affordable housing development.

Advantageous: The developer has limited experience in affordable housing development.

Not Acceptable: The developer has no experience in affordable housing development.

5.3 Conditions, Terms and Limitations

5.3.1 General Terms and Conditions

This Request for Proposals is subject to the specific conditions, terms and limitations stated below:

The Property is to be transferred in as-is condition and with all faults (including, without limitation, environmental condition). The Committee makes no representation whatsoever as to the physical condition of the site.

Each proposal shall be signed by the developer.

The project shall conform to, and be subject to, the provisions of all other applicable laws, regulations, and ordinances of Federal, State, Regional and Town authorities having jurisdiction as amended from time to time.

Valid permits and approvals, as required by Town, Regional, State and Federal agencies, shall be obtained by the developer/contractor prior to commencing work at the developer's sole cost and expense. Neither this RFP nor any agreement entered by the Town may waive, limit, control, govern or in any way describe the legal authority of any Town board, commission, committee, officer or official to regulate, authorize, restrict, inspect, investigate, enforce against, or issue, deny, suspend or revoke any permit, license or other approval with respect to the developer or the Property.

The selection of a developer will depend on satisfying the additional documentation and review requirements described in this RFP and will be subject to the selection criteria described in Section 5.4 of the RFP.

No transaction will be consummated if any principal of any selected developer is in arrears or in default upon any debt, lease, contract or obligation to the Town of Dunstable, including without limitation, real estate taxes and any other municipal liens or charges. The Committee reserves the right not to review any proposal by any such developer.

The Committee is not obligated to pay, nor shall in fact pay, any costs or losses incurred by any developer at any time including the cost of responding to the RFP.

This RFP does not represent any obligation or agreement whatsoever on the part of the Committee.

Selection of a developer's proposal will not create any rights on the developer's part, including, without limitation, rights of enforcement, equity or reimbursement, until all related documents are fully executed and approved by the Committee.

All determinations as to the completeness or compliance of any proposals, or as to the eligibility or qualification of any developer, will be within the sole and absolute discretion of the Committee.

This RFP, and any agreement resulting therefrom, are subject to all applicable laws, rules and regulations promulgated by any Federal, State, regional or municipal authority having

jurisdiction over the subject matter thereof, as the same may be amended from time to time.

The Property shall be subject to real estate taxation subject to M.G.L. c. 59, Sec. 2B.

Construction of the project shall not begin until the property has been legally transferred.

The developer shall construct the project in a good and workmanlike manner, in compliance with accepted engineering practices and in compliance with all applicable laws. The developer shall take reasonable measures to minimize dust, noise, construction traffic, disruption or inconvenience by the project and make adequate provisions for the safety and convenience of all persons affected by the project.

The developer shall defend and hold harmless the Town from and against any and all claims, damages, losses, penalties, costs, expenses and fees attributable to the developer in the implementation of the project.

5.4 Selection Process

The most advantageous proposal from a responsive and responsible proposer, taking into account consideration price and all other evaluation criteria set forth in the RFP, will be selected. The Committee reserves the right to reject any and all proposals if it determines that it is in the best interest of the Committee to do so.

The main objective of this development is to provide quality affordable housing for residents of Dunstable and the surrounding area where escalating housing market values are making housing that is affordable for working families a scarce commodity. In the Town of Dunstable and surrounding areas affordable housing is in short supply. This local housing market, compounded with escalating housing market values and real estate taxes, the Committee foresees that affordable housing will only become more of a scarce commodity looking into the future.

Proposals from developers with strong technical and financial capacity that provide the best product will be most competitive. At the heart of the competitive criteria is an evaluation of whether the Development, as proposed, is feasible based on Program Guidelines.

All proposals that are submitted by the deadline will be opened in public and logged in. The review of proposals will begin immediately after the submission deadline. The Committee will coordinate the review and selection process leading to a designated developer to undertake the development of the Property.

Respondents will be interviewed to answer questions or to solicit additional information on their proposal and their ability to finance and complete the Development. Further evaluation will include a review of references and may involve site visits to other projects completed by the respondent as well as an examination of additional financial or design information. In evaluating qualifications, the combined experience and resources of all principals, if applicable, will be considered.

It is anticipated that all applicants will be notified of the results of the selection process in writing within 60 days of the submission deadline.

The Committee will review proposals and select a developer with whom to negotiate a land lease agreement. The Committee will also seek comments from the Board of Selectmen the Planning Board, Housing Trust, Zoning Board and other relevant boards and committees on the finalist's proposed plan prior to preliminary designation. If the Committee and selected developer are unable to come to agreement after a reasonable period of time on the terms and conditions for proceeding with the development, the Committee will proceed to the next highest ranked finalist and ask that party to negotiate until an agreement is reached with a satisfactory developer or the Committee terminates the process.

After the selection, the developer will be granted a preliminary designation as developer and will be granted a period of time to develop preliminary plans for permitting purposes and undertake due diligence investigations. During this period the following will occur:

- 1) The Designated Developer will conduct its due diligence in accordance with the schedule proposed in the RFP and agreed upon with the Committee.
- 2) The Designated Developer will prepare plans and budget.
- 3) The Developer will apply for necessary regulatory relief.
- 4) Secure regulatory approvals.
- 5) Finalize plans and secure all subsidies and permits.
- 6) Close on construction financing.
- 7) Negotiate and sign lease with Town.
- 8) Begin construction

For any additional information, please contact: housing@dunstable-ma.gov.

Appendices

- A. Beneficial Interests Form
- B. Tax Compliance Form
- C. Non-Collusion Form
- D. Tax Compliance Certification
- E. MUD Parcel Deed
- F. Hancock Engineering Concept Plans
- G. Hancock Engineering Letter regarding Septic System Requirements
- H. Results of deep hole test

A. Beneficial Interests Form

**DISCLOSURE STATEMENT FOR
TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY
M.G.L. c. 7C, s. 38 (formerly M.G.L. c. 7, s. 40J)**

INSTRUCTION SHEET

NOTE: The Division of Capital Asset Management and Maintenance (DCAMM) shall have no responsibility for insuring that the Disclosure Statement has been properly completed as required by law. Acceptance by DCAMM of a Disclosure Statement for filing does not constitute DCAMM's approval of this Disclosure Statement or the information contained therein. Please carefully read M.G.L. c. 7C, s. 38 which is reprinted in Section 8 of this Disclosure Statement.

Section (1): Identify the real property, including its street address, and city or town. If there is no street address then identify the property in some other manner such as the nearest cross street and its tax assessors' parcel number.

Section (2): Identify the type of transaction to which this Disclosure Statement pertains --such as a sale, purchase, lease, etc.

Section (3): Insert the exact legal name of the Public Agency participating in this Transaction with the Disclosing Party. The Public Agency may be a Department of the Commonwealth of Massachusetts, or some other public entity. Please do not abbreviate.

Section (4): Insert the exact legal name of the Disclosing Party. Indicate whether the Disclosing Party is an individual, tenants in common, tenants by the entirety, corporation, general partnership, limited partnership, LLC, or other entity. If the Disclosing Party is the trustees of a trust then identify the trustees by name, indicate that they are trustees, and add the name of the trust.

Section (5): Indicate the role of the Disclosing Party in the transaction by checking one of the blanks. If the Disclosing Party's role in the transaction is not covered by one of the listed roles then describe the role in words.

Section (6): List the names and addresses of every legal entity and every natural person that has or will have a direct or indirect beneficial interest in the real property. The only exceptions are those stated in the first paragraph of the statute that is reprinted in Section 8 of this Disclosure Statement. If the Disclosing Party is another public entity such as a city or town, insert "inhabitants of the (name of public entity)." If the Disclosing Party is a non-profit with no individual persons having any beneficial interest then indicate the purpose or type of the non-profit entity. If additional space is needed, please attach a separate sheet and incorporate it by reference into Section 6.

Section (7): Write "none" in the blank if none of the persons mentioned in Section 6 is employed by DCAMM. Otherwise list any parties disclosed in Section 6 that are employees of DCAMM.

Section (8): The individual signing this statement on behalf of the Disclosing Party acknowledges that he/she has read the included provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts.

Section (9): Make sure that this Disclosure Statement is signed by the correct person. If the Disclosing Party is a corporation, please make sure that this Disclosure Statement is signed by a duly authorized officer of the corporation as required by the statute reprinted in Section 8 of this Disclosure Statement. This completed and signed Disclosure Statement should be mailed or otherwise delivered to:

Deputy Commissioner for Real Estate
Division of Capital Asset Management and Maintenance
One Ashburton Place, 15th Floor, Boston, MA 02108

**DISCLOSURE STATEMENT FOR
TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY
M.G.L. c. 7C, s. 38 (formerly M.G.L. c. 7, s. 40J)**

The undersigned party to a real property transaction with a public agency hereby discloses and certifies, under pains and penalties of perjury, the following information as required by law:

- (1) REAL PROPERTY:
- (2) TYPE OF TRANSACTION, AGREEMENT, or DOCUMENT:
- (3) PUBLIC AGENCY PARTICIPATING in TRANSACTION:
- (4) DISCLOSING PARTY'S NAME AND TYPE OF ENTITY (IF NOT AN INDIVIDUAL):

- (5) ROLE OF DISCLOSING PARTY (Check appropriate role):

_____ Lessor/Landlord _____ Lessee/Tenant
_____ Seller/Grantor _____ Buyer/Grantee
_____ Other (Please describe): _____

- (6) The names and addresses of all persons and individuals who have or will have a direct or indirect beneficial interest in the real property excluding only 1) a stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation or 2) an owner of a time share that has an interest in a leasehold condominium meeting all of the conditions specified in M.G.L. c. 7C, s. 38, are hereby disclosed as follows (attach additional pages if necessary):

NAME

RESIDENCE

- (7) None of the above-named persons is an employee of the Division of Capital Asset Management and Maintenance or an official elected to public office in the Commonwealth of Massachusetts, except as listed below (insert "none" if none):
- (8) The individual signing this statement on behalf of the above-named party acknowledges that he/she has read the following provisions of Chapter 7C, Section 38 (formerly Chapter 7, Section 40J) of the General Laws of Massachusetts:

No agreement to rent or to sell real property to or to rent or purchase real property from a public agency, and no renewal or extension of such agreement, shall be valid and no payment shall be made to the lessor or seller of such property unless a statement, signed, under the penalties of perjury, has been

**DISCLOSURE STATEMENT FOR
TRANSACTION WITH A PUBLIC AGENCY CONCERNING REAL PROPERTY
M.G.L. c. 7C, s. 38 (formerly M.G.L. c. 7, s. 40J)**

filed by the lessor, lessee, seller or purchaser, and in the case of a corporation by a duly authorized officer thereof giving the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in said property with the commissioner of capital asset management and maintenance. The provisions of this section shall not apply to any stockholder of a corporation the stock of which is listed for sale to the general public with the securities and exchange commission, if such stockholder holds less than ten per cent of the outstanding stock entitled to vote at the annual meeting of such corporation. In the case of an agreement to rent property from a public agency where the lessee's interest is held by the organization of unit owners of a leasehold condominium created under chapter one hundred and eighty-three A, and time-shares are created in the leasehold condominium under chapter one hundred and eighty-three B, the provisions of this section shall not apply to an owner of a time-share in the leasehold condominium who (i) acquires the time-share on or after a bona fide arms length transfer of such time-share made after the rental agreement with the public agency is executed and (ii) who holds less than three percent of the votes entitled to vote at the annual meeting of such organization of unit owners. A disclosure statement shall also be made in writing, under penalty of perjury, during the term of a rental agreement in case of any change of interest in such property, as provided for above, within thirty days of such change.

Any official elected to public office in the commonwealth, or any employee of the division of capital asset management and maintenance disclosing beneficial interest in real property pursuant to this section, shall identify his position as part of the disclosure statement. The commissioner shall notify the state ethics commission of such names, and shall make copies of any and all disclosure statements received available to the state ethics commission upon request.

The commissioner shall keep a copy of each disclosure statement received available for public inspection during regular business hours.

(9) This Disclosure Statement is hereby signed under penalties of perjury.

PRINT NAME OF DISCLOSING PARTY (from Section 4, above)

AUTHORIZED SIGNATURE of DISCLOSING PARTY

DATE (MM / DD / YYYY)

PRINT NAME & TITLE of AUTHORIZED SIGNER

B. Tax Compliance Form

Pursuant to Massachusetts General Laws, Chapter 62C, Section 49A, I certify under the penalties of perjury that _____ has fully complied with all laws of the Commonwealth of Massachusetts relating to the payment of taxes.

Company Name: _____

Address: _____

Name & Title of Signatory: _____

Date: _____

Federal Tax ID or Social Security Number: _____

C. Non-Collusion Form

The undersigned certifies under penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Name of Business

Signature of Individual Corporate Name

Signature of individual submitting bid or proposal

Social Security Number or Federal Identification Number

D. Tax Compliance Certification

Pursuant to M.G.L. c. 62C, §49A, I certify under the penalties of perjury that, to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Name of Business

Signature of Individual/Corporate Name

Signature of individual submitting bid or proposal

Social Security Number or Federal Identification Number

3 1 0 0 2 2 1 2 3 6

QUITCLAIM DEED

We, Nancy J. Finnegan and Nancy J. Loiselte, Trustees of the Jeffrey Realty Trust, w/dt dated May 19, 1987, recorded with Middlesex North District Registry of Deeds in Book 4061, Page 326 for consideration of Three Hundred Ninety Thousand and 00/100 Dollars (\$390,000.00) paid, grant to The Town of Dunstable, a municipal corporation in the County of Middlesex, Commonwealth of Massachusetts, 511 Main Street, Dunstable, Massachusetts 01827 acting by and through its Board of Selectmen with QUITCLAIM COVENANTS

The land with the buildings thereon shown as Lot 1, Lot 2 and Parcel A on a plan entitled "Plan of Land, Location: Pleasant Street, Dunstable, MA, Prepared For Jeffrey Realty Trust, dated 02/01/99, Howe Surveying Associates, Inc., 73 Princeton Street, No. Chelmsford, MA recorded with Middlesex North District Registry of Deeds on March 3, 1999 as Instrument Number 16334, together with an easement to pass and repass, and for all purposes for which public ways are ordinarily used in the Town of Dunstable, over the area within Lot 3 denominated as "Access Easement" as shown on said Plan.

Excepted from this conveyance is Parcel B containing 3,781.0 square feet or .09 acres of land as shown on said Plan.

For title to Lot 1 see deed recorded with Middlesex North District Registry of Deeds in Book 4061, Page 335, for title to Lot 2 see deed dated recorded with Middlesex North District Registry of Deeds in Book 4726, Page 220, and for title to Parcel A see deed recorded with Middlesex North District Registry of Deeds in Book 4208, Page 136.

Witness our hands and seals this 11 day of March, 1999

Nancy J. Finnegan, Trustee
Nancy J. Finnegan, Trustee
of the Jeffrey Realty Trust

Nancy J. Loiselte, Trustee
Nancy J. Loiselte, Trustee
of the Jeffrey Realty Trust

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

March 11, 1999

Then personally appeared the above-named Nancy J. Finnegan and Nancy J. Loiselte, Trustees as aforesaid and acknowledged the foregoing instrument to be their free act and deed, before me,

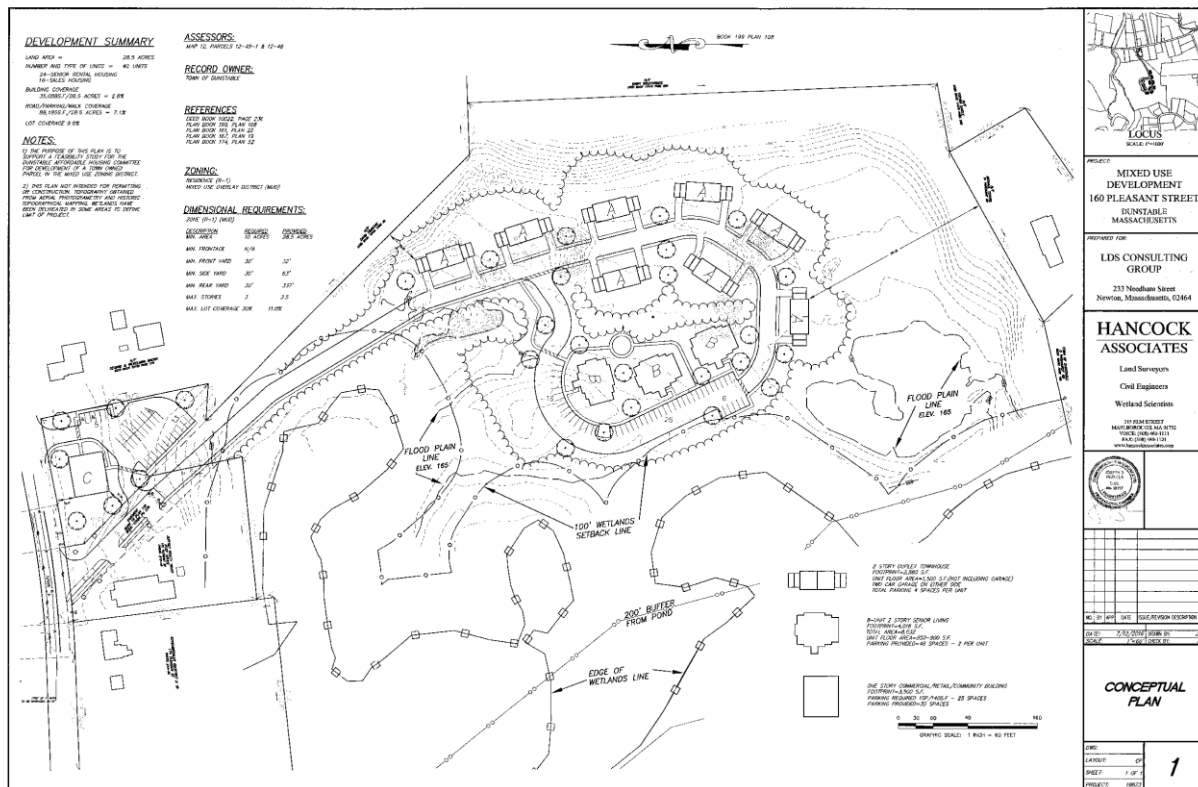
Michael J. Filley
Notary Public

My commission expires: June 10, 2003

*Address of grantee:
Pleasant St
Dunstable, MA 01827*

03/23/99 08:44:06 21726 75.36 7

F.



Hancock Associates Concept Plan, 160 Pleasant Street.

HANCOCK ASSOCIATES

December 11, 2016

Tracy Hutton
Town Administrator
Town of Dunstable
511 Main Street
Dunstable, MA 01827

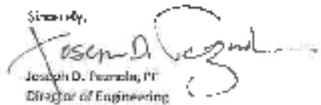
Subject: Dunstable Affordable Housing Committee
160 Pleasant Street Housing Study
Septic System Requirements

Dear Tracy:

In assisting in preparation of the housing study for 160 Pleasant Street, Hancock Associates investigated the soil conditions at the subject site to assess their suitability to support the project envisioned. The existing soils have been mapped as Hirtley Loamy Sand by the U.S. Natural Resource Conservation Service. This soil is considered excessively drained (less than 2 minutes per inch percolation rate) with seasonal high groundwater 36 inches or more from the surface. This is consistent with my personal knowledge of the site, having performed engineering studies in 1989 when the site was an active gravel operation. The elevations of the site that are targeted for development under the study and accompanying plan are some 10 feet above the wetlands and pond. It is my professional opinion as a Professional Engineer and Certified Soil Evaluator that on-site septic system(s) can be installed without needing to raise site levels to achieve the required groundwater offsets. I envision the project could have two separate systems to support the sixteen 3-bedroom townhouses (5,280 gallons per day) and the twenty-four senior living residences (3,600 gallons per day).

I met with the Dunstable Board of Health while completing the study. Dunstable has local regulations for septic systems that require a Long Term Acceptance Rate (LTAR) of 0.33 gallons per square foot regardless of the percolation rate found at a site. We discussed recent research pertaining to actual flows in large residential projects being significantly less as compared to the Massachusetts required (Title 5) design flows of 110 gallons per bedroom per day and 150 gallons per senior housing unit per day. The Board was open to the furthering the discussions with the future developer. They understood the implications of the local regulations and overly conservative design flows leading to a system that may be too large. It is my opinion the subject site can support septic systems fully compliant with Title 5 and the Dunstable septic regulations given the project goals, the layout of the housing project presented in study, the available land, the existing soils and considering all defined site constraints.

Sincerely,



Joseph D. Pezalla, PE
Director of Engineering

CC: LPS Consulting

Letter Regarding Septic System Requirements

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H. Results of Deep Hole Test

On July 11, 2019 testing was performed in the MUD to determine the suitability of the site a multi-family/mixed use development. Four test pits were excavated at:

PT #1 N 42°40'06.9" W 71°29'29.0"

PT #2 N 42°40'06.7" W 71°29'25.2"

PT #3 N 42°40'05.0" W 71°29'25.2"

PT #4 N 42°40'02.7" W 71°29'28.1"

The pits for tests #1, #2 and #4 varied in depth from 9 feet to 11 feet. All of them showed the material to be sand and there was no indication of water in any of the pits. Pit #3 located closest to the toe of the slope was abandoned after excavating to a depth of approximately 3 feet due to the presents of broken shale and a significant amount of cobbles. A percolation test was performed adjacent to Pit #1 at a depth of approximately 3 feet. The percolation rate was determined to be less than 2 minutes/ inch since it was not able to maintain the required depth of water for the pre-soak period after using 24 gallons of water. Based on the results of this test and observations of the material in the other two pits it was determined that the rate in the other two pits would be the same and no further testing would be needed.

JSR Civil Engineering

61 Barretts Hill Road

Hudson, NH 03051

Jeffrey S. Rider, P.E., P.L.S.

Tel: (603) 595-0331

Cell: (603) 459-3492

E-mail: jsreng@comcast.net

DEVELOPMENT AGREEMENT

This Development Agreement (this "Agreement") is made as of this ____ day of _____, 2011, by and between XYZ corporation, a Massachusetts corporation, having a place of business at 123 Main Street, anywhere MA 02XXX ("Developer") and the Town of _____ ("Town"), public body corporate and politic organized under the laws of the Commonwealth of Massachusetts, having a place of business at _____, MA 01111 ("HA").

Recitals

A. Town is the owner in fee simple of certain property known as _____ located on Old Road, somewhere MA ("Property"). The Property contains _____. Town wishes to develop [*a portion of*] such unimproved areas as affordable rental housing. Town has determined that it can best accomplish this purpose by engaging a private developer to develop, construct and operate such housing while Town maintains long-term site control and provides oversight.

B. On or about, Town issued a request for proposals in connection with the contemplated development, construction and operation of at least ____ units of affordable rental housing on [*a portion of*] the Property. On or about, Developer submitted a proposal (the "Proposal") to develop, construct and operate residential units, including bedroom units and -bedroom units, and associated site improvements and open space to be developed on [*a portion of*] the Property as generally described in the Proposal which is attached as Exhibit A and incorporated herein by reference and otherwise in accordance with this Agreement (the "Project"). On or about, Town designated Developer as the developer for the Project.

C. Town and Developer desire to enter into an agreement pursuant to which Developer will develop, construct and operate the Project on [*a portion of*] the Property, [*such portion*] to be determined by the parties in accordance with this Agreement as set forth below.

Agreement

NOW, THEREFORE, in consideration of the foregoing premises, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Article 1. Site Control; Ground Lease; Developer Fee, Etc.

1.1 Determination of Project Site. The parties agree that the Project shall be located on the acres of the unimproved portion of the Property with exact boundaries as delineated in the attached property site plan (and/or) survey ("Project Site").

1.2 Ground Lease of Project Site. At such time as Developer is ready to close on its construction financing for development of the Project, Town and Developer shall enter into a mutually agreeable ground lease ("Ground Lease"), substantially in the form attached hereto

as Exhibit C, pursuant to which Twon will lease the Project Site to Developer for a term of ninety-nine (99) years and otherwise on terms consistent with this Agreement. The Ground Lease shall be on a “triple net” basis, with all costs and expenses, including taxes and insurance, paid by tenant. Rent under the Ground Lease shall consist of a payment of \$XX per year and a payment of \$XX upon the permanent loan closing. If and when executed, the Ground Lease shall supersede this Agreement in its entirety.

1.3 Developer Right of Entry. Twon grants to Developer, its agents, employees, subcontractors, and their agents and employees, a license to enter onto the Property for the purpose of investigating site conditions including, without limitation, surveying, conducting soil tests or borings, and conducting other investigations or engineering tests. Any such entry shall be done at Developer’s sole cost and expense, and at Developer’s sole risk. Developer agrees to indemnify, defend, and hold harmless Town and its employees and agents, from and against any cost, expense, claim or liability arising from any such entry onto the Property by Developer, its agents, employees or subcontractors. Developer agrees that it shall conduct all such tests and investigations in a manner which will cause as little damage as possible to the Property, and in the event of any such damage, shall promptly repair and restore the same at its sole cost and expense. Developer agrees further that all such tests and investigations will be conducted in compliance with all applicable laws and regulations.

1.4 Developer Fee and Overhead. Developer shall be entitled to receive a developer fee and reimbursement for developer overhead in connection with the Project in such amounts and paid on such schedules as approved by the Department of Housing and Community Development. In no event shall payment of any part of such amounts be an obligation of Town.

1.

Article 2. Development of Project; Affordability; Term of Agreement.

2.1 The Project. Subject to the Requirements (defined below), Developer shall have responsibility for all aspects of the design, development, construction and operation of the Project.

2.2 Affordability. _____% of the dwelling units at the Project shall be affordable to households earning of or less of the median family income for the [_____] Standard Metropolitan Statistical Area, adjusted for family size.

2.3 Development Costs. It is understood and agreed that Developer shall receive the Project Site in an “as is” condition and shall bear all costs associated with the Project as contemplated hereunder. Town will pay its own legal fees in connection with preparation and negotiation of this Agreement and the Ground Lease.

2.3 Term of Agreement. In the event that the Developer has not closed on its construction financing for development of the Project by, either party may terminate this Agreement upon written notice to the other party.

Article 3. Respective Responsibilities of Parties.

3.1 Responsibilities of Developer. All aspects of the development of the Project as a financially feasible project shall be the sole responsibility of Developer, it being understood that Developer shall only be responsible for the construction and operation of the Project to the extent Developer timely receives all funding, permits and approvals contemplated in the Proposal or this Agreement or otherwise necessary for the Project. Items a, b, c below are required for documentation that the Developer is diligently pursuing his obligations to the Town as further detailed in Article 5.1.1. Specific Developer responsibilities include, without limitation, the following:

(a) Developer shall provide Town on a timely basis with all information with regard to Developer's activities which Town reasonably requests.

(b) Developer shall select, coordinate, direct and manage the Project development and construction teams identified in the Proposal. Upon request, Developer shall provide Town with contractors' names and contact information.

(c) Developer shall apply for, secure, and enter into all necessary Project financing and subsidy arrangements. Developer shall keep Town fully informed of all applications for government assistance and public or private financing with respect to the Project and upon request shall provide Town with copies of formal submissions.

(d) Developer shall obtain hazard and liability insurance reasonably satisfactory to Town.

(e) Developer shall use diligent efforts to adhere to the Project Development Schedule attached as Exhibit B.

(f) Developer shall comply with all the Requirements (defined below), and shall obtain all necessary governmental consents and approvals, including a comprehensive permit pursuant to M.G.L. Ch. 40B or any other such zoning permits, a building permit and other municipal, state or federal permits.

(g) Developer shall prepare and follow an affirmative fair housing marketing plan in compliance with DHCD's Affirmative Fair Housing Marketing Plan Guidelines for the Project. Such plan shall be submitted to Town for review and approval prior to implementation.

(h) Developer shall manage and supervise the construction of the Project in accordance with the terms of the Ground Lease.

3.2 Responsibilities of Town. The following matters shall be the primary responsibility of Town:

(a) Town shall review on an expeditious basis any matter submitted to it for review or approval and advise Developer of approval or denial, and (if relevant) of its reasons for denial.

(b) Town shall provide reasonable support for the Project with local, state, and Federal agencies, lenders, and other applicable parties. Town shall provide reasonable assistance requested by Developer in obtaining licenses, approvals, clearances, the comprehensive permit and other permits, or other cooperation from local, state, and Federal

agencies and officials and from local governing bodies, including with respect to the approval of the Project by the Department of Housing and Community Development pursuant to 760 CMR 4.13. Town will cooperate with Developer in pursuing any real estate tax exemptions and abatements that may be available for the Project.

3.3 Responsibilities of Both Parties.

(a) If resources anticipated by the parties for the Project become unavailable, or for any reason the Project ceases to be feasible, including, without limitation, due to engineering constraints of the Property, Town will work with Developer, both in good faith, to develop changes or alternate plans which accomplish the original goals set forth in this Agreement to the maximum extent possible given available resources, which changes may include a reduction in the number of the units in the Project or a change in affordability levels. In the event that the parties, using good faith, are either unable to identify feasible changes or alternate plans or to agree upon proposed changes or alternate plans within six (6) months after the need for changes or alternate plans has been identified, either party may terminate this Agreement upon written notice to the other party.

Article 4. Plans; Project Development Schedule

4.1 Plans. The development and construction of the Project shall be in substantial compliance with the RFP and such site plans, concept plans, plans and specifications and the like, approved pursuant to this Agreement by the parties ("Plans"), unless changes are agreed upon in writing by the parties. In addition, Plans shall comply with all applicable Town of _____ ordinances, regulations and processes ("Local Ordinances") (the Approved Plans and Local Ordinances, collectively, the "Requirements").

4.2 Project Development Schedule. Attached hereto as Exhibit B is the Project Development Schedule, including proposed dates for performance of certain milestones.

Article 5. Default; Remedies.

5.1 Default by Developer. The occurrence of any of the following events shall constitute an event of default ("Event of Default") under this Agreement by Developer:

5.1.1 If Developer fails to diligently prosecute the development and construction of the Project in accordance with this Agreement or to observe or perform in any material respect any covenant, condition, agreement or obligation hereunder and shall fail to cure, correct or remedy such failure within thirty (30) days after the receipt of a written notice thereof, unless such failure cannot be cured by the payment of money available to the Project and cannot with due diligence be cured within a period of thirty (30) days, in which case such failure shall not be deemed to continue if Developer proceeds promptly and with due diligence to cure the failure and diligently completes the curing thereof, but in no event shall such extended cure period extend beyond ninety (90) days;

5.1.2 If Developer shall be adjudicated bankrupt or be declared insolvent under the federal bankruptcy code or any other federal or state law (as now or hereafter in effect) relating to bankruptcy, insolvency, reorganization, winding up or adjustment of debts (hereinafter collectively "Bankruptcy Laws") or if Developer shall (a) apply for or consent to the appointment of, or the taking of possession by, or any receiver, custodian, trustee, United States Trustee, or liquidator (or other similar official) of Developer or of any substantial portion of Developer's property, or (b) generally not pay its debts as they become due, admit in writing its inability to pay its debts generally as they become due, or (c) make a general assignment for the benefit of its creditors, or (d) file a petition commencing a voluntary case or seeking to take advantage of any Bankruptcy Law; or

5.1.3 If an order for relief against Developer shall be entered in any involuntary case under the any Bankruptcy Law, or if the petition commencing an involuntary case against Developer or proposing reorganization of Developer under any Bankruptcy Law shall be filed in and approved by any court of competent jurisdiction and not be discharged or denied within sixty (60) days after filing, or if a proceeding or case shall commence in any court of competent jurisdiction seeking aid or liquidation, the organization, dissolution, winding up or adjustment of debts of Developer, or the appointment of a receiver, custodian, trustee, United States Trustee, or liquidator or (other similar official) of Developer or of any substantial portion of Developer's property, or any similar relief as to Developer pursuant to any Bankruptcy Law, and any such proceeding or case shall continue undismissed, or an order, judgment or decree approving any or ordering any of the foregoing shall be entered and continued unstayed and in effect for thirty (30) days.

5.2 Remedies for Town. If there is an Event of Default by Developer, Town may, in addition to any and all other remedies available to it at law or in equity terminate this Agreement upon written notice to Developer.

5.3 Default by Town. The occurrence of any of the following events shall constitute an Event of Default by Town hereunder:

5.3.1 If Town fails in any material respect to observe or perform any covenant, condition, agreement or obligation hereunder, and shall fail to cure, correct or remedy such material default within thirty (30) days after the receipt of written notice thereof, unless such failure cannot be cured by the payment of money and cannot with due diligence be cured within a period of thirty (30) days, in which case such failure shall not be deemed to continue if the Town proceeds promptly and with due diligence to cure the failure and diligently completes the curing thereof, but in no event shall such extended cure period extend beyond ninety (90) days;

5.4 Remedies for Developer. If there is an Event of Default by Town, Developer may, in addition to any and all other remedies available to it at law or in equity terminate this Agreement upon written notice to Town.

Article 6. Miscellaneous.

6.1 Integration. This Agreement expresses the entire agreement of the parties, and supersedes and replaces any prior agreements of the parties, written or oral.

6.2 Applicable Law. This Agreement shall be construed under the laws of the Commonwealth of Massachusetts.

6.3 Amendment. This Agreement may be amended only by a written instrument, executed by the party to be charged therewith.

6.4 Notices. Whenever, by the terms of this Agreement, notice or any other communication shall or may be given, such notice or communication shall be in writing and shall be deemed given upon the earlier of (i) actual receipt by the party to whom addressed or by such party's agent or employee, (ii) two business days after being deposited in the U.S. mail, registered or certified mail, postage prepaid, or (iii) one business day after being delivered to a so-called "overnight" mail service with 1-day service, in any event addressed as follows:

If to Town, to:

Town of _____,

Anywhere, MA 01111

Attn: _____, Title

and a copy to:

Department of Housing and Community
Development

100 Cambridge St,

Suite 300

Boston, MA 02114

If to Developer, to:

XYZ corporation,

460 Main Street

Anywhere, MA 02222

Attn: _____, Project Manager

and a copy to:

Attorney

ABC LLP

123 Main Street

Boston, MA 02122

6.5 Approvals and Consents. Where the approval or consent of either party is required, such approval or consent shall not be unreasonably withheld, conditioned or delayed. All approvals and consents shall be requested and provided in writing. Any denial of an approval or consent shall be in writing and shall contain a clear and full statement of the reasons for the denial. Unless otherwise specifically provided in this Agreement, if approval or consent is requested pursuant to the notice procedures set forth in this Agreement and if no response is received within fourteen (14) days of the notice, the approval or consent shall be conclusively deemed granted. Any such approvals or consents to be deemed granted after a period of non-reply shall, as a condition to the effectiveness thereof, be prefaced with the following language printed in capital letters in boldface type:

**“NOTICE THIS REQUEST FOR APPROVAL REQUIRES IMMEDIATE REPLY.
FAILURE TO RESPOND WITHIN ____ DAYS SHALL RESULT IN AUTOMATIC
APPROVAL.”**

6.6 Reliance by Developer. Town acknowledges that Developer intends to rely on this Agreement and further agrees Developer may rely on this Agreement to establish to third parties that it has site control of the Project Site in order to qualify for financing and obtain other approvals for the Project.

6.7 Prohibition on Assignment. This Agreement may not be assigned or transferred by Developer without the written consent of Town. Notwithstanding the foregoing, for the purposes of this Agreement, “Developer” shall refer variously to XYZ corporation and, as the context dictates, any entity which either directly or indirectly controls, is controlled by or is under common control with XYZ corporation, which XYZ corporation may organize to accomplish its obligations hereunder.

[signature page follows]

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**PROPOSED FORM OF
LEASE
TO BE UTILIZED IN CONNECTION WITH DISPOSITION OF HOUSING
AUTHORITY – OWNED LAND FOR AFFORDABLE HOUSING
DEVELOPMENT**

**between
◇ HOUSING AUTHORITY
and
◇**

Dated as of _____, 200__

**From the Office of
Jeffrey W. Sacks, Esquire
Brown Rudnick Berlack Israels LLP
One Financial Center
Boston, Massachusetts 02111
BR BROWN
BI RUDNICK
BERLACK
ISRAELS LLP**

**THIS DOCUMENT MUST BE READ, UNDERSTOOD AND MODIFIED
TO CONFORM TO THE PARTICULAR REQUIREMENTS
OF EACH TRANSACTION.**

